

NTSB Order No. EA-5216

Issued under delegated authority (49 C.F.R. 800.24)
on the 30th day of March, 2006

Respondent.

Docket SE-17435

On January 10, 2006, respondent, through counsel, filed a notice of appeal from the law judge's December 8, 2005 oral initial decision.¹ On January 5, 2005, the law judge issued an order denying respondent's motion for reconsideration. The order stated that respondent was required to perfect any appeal within 30 days of the service date of that order [i.e., by February 6, 2006] or within 50 days of the oral initial decision [i.e., by January 27, 2006], whichever was later. However, respondent did not subsequently file a timely appeal brief,² and has not provided good cause for this failure. His appeal is therefore

² Respondent's appeal brief was due no later than February 6, 2006, but was filed on February 28.

subject to dismissal under Section 821.48(a) of the Board's Rules of Practice (49 C.F.R. Part 821).³

In the absence of good cause to excuse respondent's failure either to perfect his appeal by filing a timely appeal brief or to submit a timely extension request for filing the brief after the deadline, dismissal of his appeal is required by Board precedent and policy. See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's appeal is dismissed.

Gary L. Halbert
General Counsel

³ Section 821.48(a) provides as follows:

§ 821.48(a) **Briefs and oral argument.**

(a) Appeal brief....each appeal must be perfected, within 50 days after the date on which the oral initial decision was rendered, or 30 days after the date on which the written initial decision or appealable order was served, by the filing, and simultaneous service on the other parties, of a brief in support of the appeal. An appeal may be dismissed by the Board, either on its own initiative or on motion of another party, where a party who has filed a notice of appeal fails to perfect the appeal by filing a timely appeal brief.